

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CONDATO AGROEXPORTADORA LTDA.,

INDEX NO: 07 CIV 9370

Plaintiff,
- against -

ANSWER AND
COUNTERCLAIM

USA TROPICAL, INC., HARI CHAND and
HON CHAND,
Defendants.

-----X

USA TROPICALS, INC., sued herein as USA TROPICAL, INC.,
(hereinafter "USA") and HARI CHAND, as and for their answer to the
complaint herein, allege as follows:

1. Deny having any knowledge or information sufficient
to form a belief as to each and every allegation in paragraphs
numbered "4", "11" and "12" of the Complaint.

2. Deny each and every allegation contained in
paragraphs numbered "6", "7", "9" "10" and "13" of the Verified
Complaint.

AS AND FOR AN ANSWER TO COUNT 1 OF THE COMPLAINT

3. In answering paragraph "14" of the Complaint,
defendants USA and HARI CHAND repeat, reiterate and reallege each
and every denial contained in the preceding paragraphs of this
Answer with the same force and effect as though here again set
forth at length.

4. Deny each and every allegation in paragraph numbered
"15" of the Complaint.

AS AND FOR AN ANSWER TO COUNT 2 OF THE COMPLAINT

5. In answering paragraph "16" of the Complaint,
defendants USA and HARI CHAND repeat, reiterate and reallege each

and every denial contained in the preceding paragraphs of this Answer with the same force and effect as though here again set forth at length.

6. Deny each and every allegation in paragraph numbered "17" of the Complaint.

AS AND FOR AN ANSWER TO COUNT 3 OF THE COMPLAINT

7. In answering paragraph "18" of the Complaint, defendants USA and HARI CHAND repeat, reiterate and reallege each and every denial contained in the preceding paragraphs of this Answer with the same force and effect as though here again set forth at length.

8. Deny each and every allegation in paragraphs numbered "19" through "22", inclusive, of the Complaint.

AS AND FOR AN ANSWER TO COUNT 4 OF THE COMPLAINT

9. In answering paragraph "23" of the Complaint, defendants USA and HARI CHAND repeat, reiterate and reallege each and every denial contained in the preceding paragraphs of this Answer with the same force and effect as though here again set forth at length.

10. Deny each and every allegation in paragraphs numbered "24" through "27", inclusive, of the Complaint.

AS AND FOR AN ANSWER TO COUNT 5 OF THE COMPLAINT

11. In answering paragraph "28" of the Complaint, defendants USA and HARI CHAND repeat, reiterate and reallege each and every denial contained in the preceding paragraphs of this

Answer with the same force and effect as though here again set forth at length.

12. Deny each and every allegation in paragraphs numbered "29" and "30" of the Complaint.

AS AND FOR AN ANSWER TO COUNT 6 OF THE COMPLAINT

13. In answering paragraph "31" of the Complaint, defendants USA and HARI CHAND repeat, reiterate and reallege each and every denial contained in the preceding paragraphs of this Answer with the same force and effect as though here again set forth at length.

14. Deny each and every allegation in paragraphs numbered "32" of the Complaint.

AS AND FOR AN ANSWER TO COUNT 7 OF THE COMPLAINT

15. In answering paragraph "33" of the Complaint, defendants USA and HARI CHAND repeat, reiterate and reallege each and every denial contained in the preceding paragraphs of this Answer with the same force and effect as though here again set forth at length.

16. Deny each and every allegation in paragraphs numbered "34" through "36", inclusive, of the Complaint.

AS AND FOR A COUNTERCLAIM

17. That on or about March, 2007, plaintiff sold to defendant USA various quantities of yams.

18. That for the most part the yams were unmerchantable, which fact was disclosed by defendant to plaintiff.

19. That defendant USA paid to plaintiff a sum of money in excess of \$30,000.00 for the goods shipped by plaintiff.

20. That plaintiff breached its express and implied warranties of sale and merchantability fitness.

21. That plaintiff promised defendant a credit for the defective merchandise.

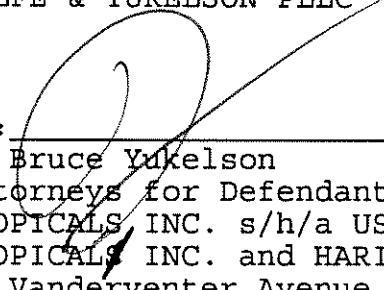
22. By reason of the foregoing, defendant USA sustained damages in an amount to be determined by the Court.

WHEREFORE, defendants demand judgment dismissing the complaint and for a monetary judgment in favor of defendant USA against the plaintiff in a sum to be determined by the Court, together with interest, costs and disbursements.

Dated: Port Washington, New York
February 4, 2008

Yours, etc.

WOLFE & YUKELSON PLLC

By: 
Bruce Yukelson
Attorneys for Defendants USA
TROPICALS INC. s/h/a USA
TROPICALS INC. and HARI CHAND
14 Vanderventer Avenue
Suite 101
Port Washington, NY 11050
(516) 767-7100

TO:
Andrew Squire, Esq.
Attorney for Plaintiff
CONDATO AGROEXPORTADORA LTDA.
379 Decatur Street
Brooklyn, New York 11233
(718) 771-2221

~~CERTIFICATE OF SERVICE~~

I, Bruce Yukelson, an attorney duly admitted to practice in the Courts of the State of New York and in this District, hereby certify that on February 5, 2008, I personally caused a copy of the foregoing ANSWER WITH COUNTERCLAIM to be served on the hereinafter listed counsel of record, by depositing a true copy of same enclosed in a properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

Andrew Squire, Esq.
Attorney for Plaintiff
CONDATO AGROEXPORTADORA LTDA.
379 Decatur Street
Brooklyn, New York 11233
(718) 771-2221



Bruce Yukelson

CONDATO AGROEXPORTADORA LTDA.,

Plaintiff,
- against -

USA TROPICAL, INC., HARI CHAND and
HON CHAND,

Defendants.

ANSWER WITH COUNTERCLAIM

WOLFE & YUKELSON PLLC
Attorneys for Defendants USA TROPICALS INC.
s/h/a USA TROPICAL, INC. and HARI CHAND
14 Vanderventer Avenue, Suite 101
Port Washington, New York 11050
(516) 767-7100

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed documents are not frivolous.

Dated: February 4, 2008

Signature: 

Print Signer's Name: Bruce Yukelson

Service of a copy of the within is hereby admitted.

Dated: _____

Attorney(s) for

PLEASE TAKE NOTICE:

☐ that the within is a (certified) true copy of a
Notice of entered in the office of the clerk of the within named Court on
Entry

☐ that an Order of which the within is a true copy will be presented for settlement
Notice of to the Hon. one of the judges of the within named Court
Settlement at
on , at M.

Dated,

WOLFE & YUKELSON PLLC
Attorneys for
14 Vanderventer Avenue, Suite 101
Port Washington, NY 11050
(516) 767-7100